IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2320 OF 2006

M/s. Shailesh Developers & Anr. ... Petitioners

V/s.

The Charity Commissioner & Ors. ... Respondents

Mr. M.S. Doctor with Mr. D.G. Rangras for petitioner.
Mr. A. Sayed, AGP for respondent No. 1 and 2.
Mr. S.C. Naidy i/b. C.R. Naidu & Co. for respondent Nos. 3,5 & 7.
Mr. H.C. Mehta i/b. Mehta & Co. for respondent No. 9

CORAM : F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED : 17th October, 2006

P.C.

. Respondent No. 3 had invited offers for sale of property belonging to the Trust. The petitioners herein were not applicants. A proposal thereafter was made by respondent No. 3 before respondent No. 2. At that stage respondent No. 3 intervened and made offer in a sum of Rs. 3.01 crores. The offer by respondent No. 9 was in the sum of Rs. 2.30 crores. Apart from that respondent No. 9 has to purchase CTS No. 61 and convey the same to respondent No. 3. At the hearing of the petition, on behalf respondent No. 2, the learned counsel produced xerox copy of the deed of conveyance by which CTS No. 61 has been conveyed by respondent No. 9 in favour of respondent No.3.

Total consideration paid by respondent No. 9 to the owner of the said plot is in an amount of Rs. 70 lacs. Besides that respondent No. 9 had also to remove encroachments from plot Nos. 57, 60, 62 & 63.

. The application by the petitioners herein was the subject matter of an order dated 29.06.2006. The learned Charity Commissioner after considering the stand of the petitioner rejected the same and subsequent thereto by another order dated 26.07.2006 sanctioned the scheme as proposed by respondent No. 3.

2. At the hearing of this petition, on behalf of petitioner, it is submitted that the Charity Commissioner himself insofar as CTS No. 61 is concerned has passed order on 21.06.2006 deleting reference thereto and as such application for intervention could not have been rejected on the basis that CTS No. 61 has to be the subject matter of the scheme of the settlement. It is further submitted that the offer made by the petitioner and which is annexed to the petition being Exhibit "H" was in terms of the Memorandum of Understanding (MOU) entered into between the petitioner and respondent No. 9. The

Charity Commissioner, therefore, it is submitted, has committed an error which is apparent on the face of the record in rejecting the offer made by the petitioner herein.

. On behalf respondent Trust, it is submitted by the learned counsel that though it is now submitted on behalf of petitioners that they were agreeable to the terms as contained in the MOU between respondent No. 3 and respondent No. 9, at the hearing, no such offer was made. A comparison of the offer made by the petitioner and respondent No. 6 was also considered by them and they fund offer of respondent no. 9 to be better than that of petitioner herein. On behalf of respondent No. 2, the learned counsel submitted that pursuant to the permission, they have taken steps and have conveyed CTS No. 61 in favour of respondent No. 3.

. Considering the above background, the question is whether after the respondent No. 9 in terms of the MOU entered into MOU with the respondent No. 3 has taken steps to convey CTS No. 61 in favour of respondent No. 3. Whether this Court should intervene in the exercise of its extra-ordinary

jurisdiction. The order of sanction resulted in the trust being entitled to Rs. 3.40 crores. However, in the event respondent No. 9 conveyed CTS No. 61 in favour of respondent no. 3. The consideration was to be Rs. 2.30 crores. Apart from that respondent No. 9 had to remove encroachment. Respondent No. 9 pursuant to the sanction has already taken steps and even otherwise, we do less find that the offer made by respondent No. 9 was not comparable to the offer made by the petitioner. Respondent No. 9 had also entered into MOU with the respondent No. 3. These are considerations which must weigh in favour of respondent No. 9. We do not think in these circumstances that this is a fit case where we should exercise our extra ordinary jurisdiction. Hence, petition rejected.

[F.I. REBELLO, J.]

[ANOOP V. MOHTA, J.]